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MINISTRY OF LAW

(Legislative Department)

New Delhi, the 17th January, 1959/*Paus* 27, 1880 (*Saka*)

THE INDIAN INCOME-TAX (AMENDMENT) ORDINANCE, 1959

NO. 1 OF 1959

Promulgated by the President in the Ninth Year of the Republic of India.

An Ordinance further to amend the Indian Income-tax Act, 1922.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title.

1. This Ordinance may be called the Indian Income-tax (Amendment) Ordinance, 1959.

Act 11 of 1922 to be temporarily amended.

2. During the period of operation of this Ordinance, the Indian Income-tax Act, 1922 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 and 4.

11 of 1922.

Amendment of section 34.

3. In section 34 of the principal Act, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) A notice under clause (*a*) of sub-section (*1*) may be issued at any time notwithstanding that at the time of the notice the period of eight years specified in that sub-section before its amendment by clause (*a*) of section 18 of the Finance Act, 1956, had expired in respect of the year to which the notice relates.". 18 of 1956.

Insertion of new section 49EE.

4. After section 49E of the principal Act, the following section shall be inserted, namely:—

Power to set off in certain cases moneys in the possession of Government against tax found due under assessments, etc., thereafter to be made.

"49EE. (*1*) Where in pursuance of any settlement relating to the assessment, re-assessment or case of any person made or purported to have been made before the commencement of the Indian Income-tax (Amendment) Ordinance, 1959, whether under this Act or otherwise, any sum of money or any security for the payment of any sum of money has been paid or furnished by him, whether on his own behalf or on behalf of any other person, no claim for the refund of any sum so paid or of the return of any security so furnished shall be entertained on the ground that the settlement is invalid in any of the following cases, namely:—

(*a*) in any case where a notice under section 34 in respect of the income, profits or gains relating to the settlement aforesaid has been issued before the commencement of the Indian Income-tax (Amendment) Ordinance, 1959; or

(*b*) in any other case, for a period of two years from such commencement;

and accordingly no application, suit or other legal proceeding shall lie for the refund of any such sum of money or the return of any such security—

(*i*) pending the completion of the assessment, re-assessment or settlement in pursuance of the notice referred to in clause (*a*); or

(*ii*) during the period of two years referred to in clause (*b*); or

(*iii*) pending the completion of the assessment, re-assessment or settlement in pursuance of any notice under section 34 which may be issued during the period of two years referred to in clause (*b*).

(2) The Income-tax Officer, Appellate Assistant Commissioner or the Commissioner, as the case may be, may set off the amount referred to in sub-section (*1*) or the amount of the security referred to in that sub-section which may be realised for the purpose against the tax, interest, penalty or any other sum which may become payable by reason of any assessment, re-assessment or settlement made in pursuance of the notice referred to in clause (*a*) of that sub-section or in pursuance of any such notice which may be issued within the period of two years referred to in clause (*b*) of that sub-section.

(*3*) In computing the period of limitation prescribed for any legal proceeding in relation to any such sum or security aforesaid, the time during which any such proceeding cannot be instituted by reason of the provisions contained in sub-section (*1*) shall be excluded.".

Saving of notices, assessments, etc., in certain cases.

5. No notice issued under clause (*a*) of sub-section (*1*) of section 34 of the principal Act at any time before the commencement of this Ordinance and no assessment, re-assessment or settlement made or other proceeding taken in consequence of such notice shall be called in question by any court, tribunal or other authority merely on the ground that at the time the notice was issued or at the time the assessment or re-assessment was made, the time within which such notice should have been issued or the assessment or re-assessment should have been made under that section as in force before its amendment by clause (*a*) of section 18 of the Finance Act, 1956, had expired.

18 of 1956.

RAJENDRA PRASAD,

President.

G. R. RAJAGOPAUL, Secy.

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